

PLANNING COMMISSION MINUTES OF APRIL 24, 2006
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2006-0159 – Application for a Variance from Sunnyvale Municipal Code section 19.34.030 to allow for a 252 square foot accessory utility building with a one foot six inch side yard setback where six feet is required and a one foot six inch rear yard setback where ten feet is required. The property is located at **1349 Cordilleras Avenue** (near W Fremont Ave) in an R-1 (Low-Density Residential) Zoning District. (APN: 323-07-046) RK

Kelly Diekmann, Associate Planner, presented the staff report. He said staff is recommending denial of the Variance request as staff can only one of three findings. Mr. Diekmann said if the Commission is able to make all three of the findings, staff has included Conditions of Approval (COAs) to be included in the motion.

Chair Hungerford opened the public hearing.

Luan Szeto, applicant, said he has a large family and a lot of things to store for his business so he modified an old shed in his backyard allowing him to clear the storage items out of the garage and move them into the shed. This allowed him to better organize his storage items and to park his car in the garage again leaving more parking room on the street. He said Dale Huber, Sr. Neighborhood Preservation Specialist with the City of Sunnyvale inspected the shed and verified that the space is for storage and not a living space.

Comm. Babcock asked Mr. Szeto if he runs his business from home. Mr. Szeto said he does not run the business from the home, but stores some of his business items at home. Mr. Szeto said he was mostly concerned about clearing the garage so the car could be parked in it to help clear space on the street.

Comm. Klein asked Mr. Szeto how long the old shed had been on the site. Mr. Szeto said he bought the house five years ago and the old shed had been on the property for a long time before he bought the house. Comm. Klein asked him if he tore the old shed down. Mr. Szeto said yes that he tore down the old shed and rebuilt the new shed.

Walter Lutzweit, a long-time Sunnyvale resident, said that his backyard fence abuts the lot that contains the structure in question. He explained the development he has seen over the past 40 years in this neighborhood and said that in the last few years he has seen investors build huge homes and fill their backyards with utility buildings and lots of concrete with very little money going to the City commons. He said there was a large avocado tree that he used to see from his backyard that was removed since the neighbor's new "large, barn-like" shed was built. He said the roof of the shed is the same height as the nearby one-story houses and is so close to fence that the builders had to climb on the fence to put the roof on the shed. He commented

on the condition of Cordilleras Avenue and said if the City does not enforce the codes and inspections and the developers do not put money into the City commons, he is very concerned about what Cordilleras Avenue will look like in the future.

Sedi Sohrabi, a Sunnyvale resident, spoke in support of the variance. She said she lives on Cordilleras Avenue and feels if the larger houses are built that there will be taxes paid which is good for the City. She said she has seen the shed in question and it is not that big, but acknowledged the setback was short. She said she wanted to support Mr. Szeto's request for the variance.

Mr. Szeto added that the reason he put the shed in the current location was because he is planning to put a pool in the yard and this was the only feasible area. He said he likes his neighbor and felt the shed would both accommodate the storage he needs and provide some privacy to the neighbor. He commented that the large avocado tree was removed because it had fungus and he does plan to plant more trees.

Comm. Klein asked Mr. Szeto if he had a Tree Removal Permit to remove the avocado tree. Mr. Szeto said he asked staff and they said he did not need a permit. He said when he built the house he had the inspector look at it. He said he trusted what the inspector said. Comm. Klein confirmed with Mr. Szeto that two trees have been planted since the shed was built, and the trees along the back fence were on the property when he bought the home.

Chair Hungerford closed the public hearing.

Comm. Babcock moved for **Alternative 1 to deny the Variance**. **Comm. Klein** seconded.

Comm. Babcock said she was unable to make the findings and the pool needs to be designed to accommodate the shed or the shed needs to be moved to accommodate the pool. She said the setbacks need to be watched for the benefit of the neighbors.

Chair Hungerford commented that it is very difficult to obtain a variance. He said it has to be a very unique or special situation to grant a variance and he does not feel the facts match the findings to grant this variance.

<p>ACTION: Comm. Babcock made a motion on 2006-0159 to deny the Variance. Comm. Klein seconded. Motion carried unanimously, 5-0, Vice Chair Fussell absent.</p>
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APPEAL OPTIONS: This item is appealable to City Council no later than May 9, 2006